

**FILED**

**LAL**

JUL 13 2005

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**MICHAEL W. DODDING  
CLERK, U.S. DISTRICT COURT**

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

Robin M. Schapiro,

Plaintiff,

v.

Pellettieri & Associates, Ltd., an  
Illinois corporation,

Defendant.

**FILED**

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**4030**

**LAL**

JUL 13 2005

JUDGE CASTILLO

**MICHAEL W. DODDING  
CLERK, U.S. DISTRICT COURT**

MAGISTRATE JUDGE MASON

**COMPLAINT**

Plaintiff, Robin M. Schapiro, brings this action under the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), for a declaration that Defendant's debt collection practices violate the FDCPA, and to recover damages by reason of Defendant's violations of the FDCPA, and alleges:

**JURISDICTION AND VENUE**

1. This Court has jurisdiction pursuant to § 1692k(d) of the FDCPA, and 28 U.S.C. § 1331.
2. Venue is proper in this District because the acts and transactions occurred here and Defendant transacts business here.

**PARTIES**

3. Plaintiff, Robin M. Schapiro, ("Schapiro") is a citizen of the State of Illinois residing in the Northern District of Illinois from whom Defendant attempted to collect a delinquent consumer debt allegedly owed to Rehabilitation Institute of Chicago.
4. Defendant, Pellettieri & Associates Ltd., is an Illinois corporation ("Pellettieri"), which acts as a debt collector, as defined by § 1692a of the FDCPA,

because it regularly uses the mails and/or telephone to collect, or attempt to collect, delinquent consumer debts, including delinquent consumer debts in the Northern District of Illinois, and was acting as a debt collector as to the delinquent consumer debt it attempted to collect from Plaintiff.

### **FACTUAL ALLEGATIONS**

5. Defendant Pellettieri sent Ms. Schapiro an initial form collection letter, dated March 11, 2005, seeking to collect a consumer debt she allegedly owed to Rehabilitation Institute of Chicago, a copy of which is attached as Exhibit A.

6. Moreover, on March 17, 2005, one of Pellettieri's debt collectors called Ms. Schapiro to demand payment of this debt. Ms. Schapiro had been disputing this debt for quite some time with previous debt collectors hired by the creditor. Accordingly, Ms. Schapiro informed Defendant Pellettieri's debt collector that she did not owe this debt and had, therefore, turned the matter over to her attorney and then Ms. Schapiro gave the debt collector her attorney's name and number.

7. Nonetheless, on April 19, 2005, Pellettieri sent directly to Ms. Schapiro a collection letter despite direct knowledge that she was represented by any attorney regarding the debt. A copy of this letter is attached as Exhibit B.

8. All of Defendant's actions occurred within one year of the date of this Complaint. Moreover, the statements made by Defendant in its collection communications are to be interpreted under the "unsophisticated consumer" standard. (See, Bartlett v. Heibl, 128 F.3d 497, 500 (7th Cir. 1997); Chauncey v. JDR, 118 F.3d 516, 519 (7th Cir. 1997); Avila v. Rubin, 84 F.3d 222, 226 (7th Cir. 1996); and, Gammon v. GC Services, Ltd. Partnership, 27 F.3d 1254, 1257 (7th Cir. 1994)).

275 F.3d 642 (7<sup>th</sup> Cir. 2001); Nielsen v. Dickerson, 307 F.3d 623, 635 (7<sup>th</sup> Cir. 2002)).

Defendant's letters appears to be from a law firm, but is, in fact, mass-produced dunning letters as to which no attorney was personally involved in the decision to mail the letters to Plaintiff or in the handling of her account. These collection letters, therefore, create the false and misleading impression that they were from an attorney, thus the letters violate § 1692e(3) of the FDCPA. (See, Avila, 84 F.3d at 228-229; Boyd v. Wexler, 275 F.3d 642; Nielsen v. Dickerson, 307 F.3d at 635 (7<sup>th</sup> Cir. 2002)).

15. Defendant's violation of § 1692e(3) of the FDCPA renders it liable for damages, costs, and reasonable attorneys' fees. (See, 15 U.S.C. § 1692k).

#### **PRAYER FOR RELIEF**

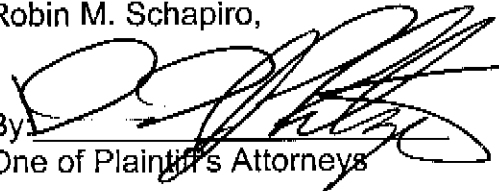
Plaintiff, Robin M. Schapiro, prays that this Court:

1. Declare that Defendant's debt collection practices violated the FDCPA;
2. Enter judgment in favor of Plaintiff Schapiro, and against Defendant, for damages, costs, and reasonable attorneys' fees as provided by § 1692k(a) of the FDCPA; and,
3. Grant such further relief as deemed just.

#### **JURY DEMAND**

Plaintiff, Robin M. Schapiro, demands trial by jury.

Robin M. Schapiro,

By   
One of Plaintiff's Attorneys

Dated: July 13, 2005

David J. Philipps  
Mary E. Philipps  
Gomolinski & Philipps, Ltd.  
9760 S. Roberts Road  
Palos Hills, Illinois 60465  
(708) 974-2900  
(708) 974-2907 (FAX)

Patrick J. Sherlock  
Law Offices of Patrick J. Sherlock  
Eleven South LaSalle Street  
Suite 1600  
Chicago, Illinois 60603  
(312) 683-5575  
(312) 896-5784 (FAX)



**NOTICE OF AMOUNT DUE**

**PELLETTIERI & ASSOCIATES, LTD**

**RE: REHABILITATION INSTITUTE OF CHICAGO**

**STATEMENT DATE** March 11, 2005

**AMOUNT DUE:** \$120.80

**ACCOUNT NUMBER** [REDACTED]

**REFERENCE#** [REDACTED]

**ADDRESSEE:**

**MAKE CHECKS PAYABLE TO:**

Robin M. Schapiro  
Unit C  
726 W Buena Ave  
Chicago IL 60613-2222

Pellettieri & Associates  
991 Oak Creek Drive  
Lombard IL 60148-6408

**\*\*\* PLEASE CALL \*\*\***

Phone: (830) 424-4000 Ext. 3084 - Fax: (830) 424-4002  
Outside Illinois: (800) 837-2458 Ext. 3084  
Pay Online at [www.pnapayment.com](http://www.pnapayment.com)

Our firm represents the above named creditor. Your account has been referred to us for collection of the amount due. Our client has authorized us to accept 60% of the above stated amount as a settlement on this account if you make payment in full. Please call our office if you wish to take advantage of this offer.

If you cannot pay the full amount, but can make a partial payment, or if you want to discuss a payment plan, call us at the phone number above, and our representative will work with you to set up an acceptable payment arrangement. We accept credit card (Visa or MasterCard) or check payment by phone, and also over the Internet at [www.pnapayment.com](http://www.pnapayment.com).

This is a communication from a debt collector and this is an attempt to collect a debt pursuant to the Fair Debt Collection Practices Act, 15 U.S.C.A. Sec. 1692. Any information obtained will be used for that purpose. If you do not dispute the validity of this debt, or any portion of it within 30 days, we will assume it is valid. If you do dispute the validity of this debt, or any portion of it, please notify us in writing within 30 days and we will provide verification of the debt or a copy of the judgment if applicable. If requested in writing within 30 days of the date of this letter, we will also provide the name and address of the original creditor (if different from the current creditor).

Thank you in advance for your attention to this matter.

Pellettieri & Associates, LTD

**PLEASE INCLUDE YOUR REFERENCE# ON PAYMENT**  
**PLEASE SEE REVERSE SIDE FOR IMPORTANT INFORMATION**

**Retain Top Portion For Your Records**  
**\*\*\* Please Return Bottom Portion With Payment \*\*\***

Pellettieri & Associates, LTD  
991 Oak Creek Dr  
Lombard, IL 60148-6408  
**RETURN SERVICE REQUESTED**

Letter Date: 03/11/05  
Reference #: [REDACTED]  
Account #: [REDACTED]  
Creditor: REHABILITATION INSTITUTE OF CHICAGO  
Amount Due: \$120.80  
Date of Service: 03-10-05  
Patient: SCHAPIRO ROBIN M.

**MAKE CHECKS PAYABLE TO:**

Robin M. Schapiro  
Unit C  
726 W Buena Ave  
Chicago IL 60613-2222

Pellettieri & Associates  
991 Oak Creek Drive  
Lombard IL 60148-6408

**EXHIBIT**

**A**

Pellettieri & Associates, LTD  
991 Oak Creek Dr.  
Lombard IL 60148-6408

REID 4-22-05

## Priority Letter

Statement Date: April 19, 2005

**PELLETTIERI & ASSOCIATES, LTD**

Phone (630) 424-4000 Ext: 3084 • Outside Illinois: (800) 837-2458 Ext: 3084

[REDACTED]  
Robin M. Schapiro  
Unit C

726 W Buena Ave  
Chicago IL 60613-2648

|||||  
|||||

Re: REHABILITATION INSTITUTE OF CHICAGO  
Amount Due: \$120.80

Pellettieri & Associates, LTD  
991 Oak Creek Dr.  
Lombard IL 60148-6408

|||||  
|||||

Account Number: [REDACTED]

Reference Number: [REDACTED]

\*\*\* Detach Upper Portion and Return with Payment \*\*\*

Letter Date : 04/19/05  
Reference# : [REDACTED]  
Account# : [REDACTED]  
Creditor : REHABILITATION INSTITUTE OF CHICAGO  
Amount Due : \$120.80  
Date of Service : 01-24-2002  
Patient : SCHAPIRO ROBIN M.

Despite our previous request for payment, the amount due above still remains unpaid.

Our client has authorized us to report this matter as a collection account to the credit reporting agencies. You are hereby notified that this account will be reported to one or more of the credit reporting agencies on or after fourteen (14) days from the date of this letter.

You have the opportunity to prevent this from happening by contacting us within the next fourteen (14) days to pay this account in full or agree on acceptable repayment terms.

It is our desire to work with you to resolve this matter but we must have your cooperation to do so.

We will accept checks or credit cards over the phone at the above phone numbers or you can pay online at [www.pnapayment.com](http://www.pnapayment.com)

Thank you,

Pellettieri & Associates, LTD

**THIS COMMUNICATION IS FROM A DEBT COLLECTOR AND THIS IS AN ATTEMPT TO COLLECT A DEBT.  
ANY INFORMATION OBTAINED WILL BE USED FOR THAT PURPOSE.**

**PLEASE INCLUDE YOUR REFERENCE# ON PAYMENT.**

EXHIBIT

B